# IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

## SPECIAL CIVIL APPLICATION No. 10184 of 2007

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE RAVI R.TRIPATHI**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**SARLABEN JAYANTILAL SHAH AND OTHERS**
**Versus**
**STATE OF GUJARATAND OTHERS**

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**Appearance :**
MR AJ PATEL with MR UP VYAS for the Petitioners
MR SATYAM CHHAYA, ASSISTANT GOVERNMENT PLEADER for Respondent Nos.1-2
MR JV BHAIRAVIA for Respondent Nos.3 - 27.
MR ANKIT BACHANI for MR HP RAVAL for Respondent Nos.28 - 36

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**CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI**

**Date : 30/08/2007**

**ORAL JUDGMENT**

1. Present petition is filed being aggrieved by order passed by the Secretary (Appeal) dated 19.12.2006 in Revision Application

No.28 of 2006 filed by one Urmilaben, Wd/o Narottambhai Morabhai Mistry and others being aggrieved by order passed by the Collector dated 30.05.2006 in RTS Revision Case No.72 of 2003.

Present petitioners had filed an application for being impleaded as party on 04.04.2006.

2. The Collector has recorded that application given by the present petitioners for being impleaded as party respondents dated 04.04.2006 is after the revision was filed on 27.11.2003 and after the matter was heard on 20 different dates and therefore, the same cannot be granted.

The aforesaid order of not granting prayer of being impleaded as party respondents ought to have been challenged by the petitioners, which the petitioners have not done.

3. It so happened that the applicants of RTS/Revision Case No.72 of 2003, being aggrieved by order of the Collector dated 30.05.2006, filed Revision Application No.28 of 2006 before the Secretary (Appeal). In that appeal, once again, the petitioners filed an application for being impleaded as party and that prayer is again rejected by the Secretary (Appeal), saying that if at all these applicants have any right interest in the subject matter, they should get relief from the Civil Court.

It is also on record that the applicants before the Collector and before the Secretary (Appeal) had filed Special Civil Suit No.22 of

2005, wherein the petitioners filed application Exh.16 praying that they should be allowed to be impleaded as party respondents. That application is again rejected by order dated 10.04.2007.

4. In view of above, the remedy of the petitioners is to challenge the said order in higher forum and not by way of present petition. In the result, the petition is found without any substance and it is dismissed. Rule is discharged. No costs. Interim relief granted earlier is vacated.

At this juncture, learned advocate for the petitioners requests that it be clarified that in the proceedings, which the present petitioners file and pursue in any forum for being impleaded as party respondents in the matter, rejection of this petition will not prejudice their right or claim. Order accordingly.

**(RAVI R.TRIPATHI, J.)**

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